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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,720	05/09/2001	James Thomas Shiveley	0188.0009	3645

7590 11/08/2007  
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EXAMINER
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GRAVINI, STEPHEN MICHAEL

ART UNIT	PAPER NUMBER
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3749

MAIL DATE	DELIVERY MODE
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11/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No. **III**

09/851,720

Applicant(s)

SHIVELEY, JAMES THOMAS

Examiner

Stephen Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3-34 and 36-40 is/are pending in the application.
- 4a) Of the above claim(s) 3-5, 22 and 24-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-19 21 23 and 36-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 36 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor at the time the application was filed, had possession of the claimed invention. In that claim, a programmable recording/controller for analyzing the treatment of coating on the coated articles and subsequently controlling treatment of the coated articles in accordance with the previous analysis is recited but is considered to lack specification description such that it reasonably conveys that the applicant had possession of the invention at the time the application was filed. In applicant's pre-grant publication document (US 2002/003459) paragraph [0054] discusses closed loop temperature control and programming but is not considered enabling to one skilled in the art for the recited "programmable recording/controller for analyzing the treatment of coating on the coated articles". In the same document, paragraph [0077] a comparison is discussed but is not considered enabling to one skilled in the art for the recited "subsequently controlling treatment of the coated articles in accordance with the previous analysis." This recitation is considered new matter which lacks support from the originally filed application.

Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. In that claim, a programmable recording/controller for analyzing the treatment of coating on the coated articles and subsequently controlling treatment of the coated articles in accordance with the previous analysis is recited but is considered to lack a positive antecedent basis such that it is construed to be indefinite.

***Claim Rejections - 35 USC § 103***

Claims 36, 6-11, 14-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudd (5,901,462) in view of Anderson (US 5,124,552). Rudd is considered to disclose the claimed invention comprising:

at least one infrared heating energy source at column 2 lines 14-24 and at column 12 lines 21-36;

at least one UV heating energy source **24** also see column 12 lines 21-36;

conveying means **20** for moving articles to be treated past the energy sources;

programmable recording/controller **31** for first analyzing the treatment of coating on the coated articles and subsequently controlling treatment of the coated articles in accordance with the previous analysis wherein the disclosed controller which includes both power control and process controls using sense temperature to control energy emitters is broadly and reasonably construed under current Office practice to encompass the claimed programmable recording/controller based on applicant's originally filed application specification discussion, and

a temperature monitor **30** for detection of the article temperature. Rudd is also considered to disclose the claimed separate second infrared or ultraviolet in line heating zones as shown in figures 1, 2, 3, and 5, a conveying belt means **398**, variable energy

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source power settings at column 24 lines 40-62, record coating or substrate temperatures or IR, UV, or energy source voltages at column 22 lines 14-40, Rudd is considered to disclose the claimed invention except the feature wherein said at least one infrared heating energy source is selectively programmable to produce short, medium, and long wavelength infrared energy. Anderson, another infrared treatment device, is considered to disclose at least one infrared heating energy source is selectively programmable to produce short, medium, and long wavelength infrared energy at column 2 line 11 through column 3 line 64. It would have been obvious to one skilled in the art to combine the teachings of Rudd with at least one infrared heating energy source is selectively programmable to produce short, medium, and long wavelength infrared energy, considered disclosed by Anderson, for the purpose of allowing varying degrees of energy application to treated articles dependent upon the sensitivity and characteristic of the treated articles. Furthermore, Rudd in view of Anderson is considered to disclose the claimed invention, as rejected above, except for the claimed wattage per area. It would have been an obvious matter of design choice to recite and specific wattage per area, since the prior art would perform the invention as claimed regardless of the claimed wattage per area.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rudd in view of Anderson in further view of Yamada (US 4,916,487). Rudd in view of Anderson is considered to disclose the claimed invention, as rejected above except the claimed reversible belt drive direction. Yamada, another belt driven treatment device, is considered to disclose a reversible belt drive direction at column 14 lines 22-39. It

would have been obvious to one skilled in the art to combine the teachings of Rudd in view of Anderson with the reversible belt drive direction, considered disclosed by Yamada, for the purpose of reversing directions of treated articles.

Claims 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudd. Rudd discloses the claimed invention, as rejected above except the claimed programmable operability. It would have been an obvious matter of design choice to provide a specific programmable operability, since the prior art would perform the invention as claimed regardless of the programmable operability.

### ***Response to Arguments***

Applicant's arguments with respect to claims 6-11, 13-19, 21, and 35 have been considered but are not persuasive.

#### ***enablement/indefiniteness***

Applicant argues that the rejected claim recitation of "programmable recording/controller for analyzing the treatment of coating on the coated articles" is enabled and not indefinite based on paragraphs [0020] and [0037] of the associated pre-grant publication document. However those paragraphs specify varying energy for an appropriate time and closed loop temperature control and programming. It is the analysis program control that is construed to be non-enabling and indefinite because neither of those paragraphs specify an analysis program necessary for the claimed control. Since cancelled claim 35 and new claim 36 are identical and do not implicitly specify analysis, the rejections are believed proper and maintained.

*obviousness*

It is believed the prior art reference Anderson teaches the claimed short, medium, and long wavelengths because the recited wavelengths in that reference encompass the broad category of short, medium, and long. Also the disclosed and argued intensity increase and decrease of radiation based on temperature directly corresponds to the claimed short, medium, and long wavelengths.

Furthermore, In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571 272 6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMG  
November 5, 2007

